

**ANDOVER BOARD OF HEALTH**

**Minutes**

**May 7, 2012, 6:00 P.M.**

**First Floor Conference Room**

**36 Bartlet Street**

The Board of Health Meeting was called to order at 6 p.m. Present were Dr. Donald H. Miller, Vice-Chairman, Ms. Katherine Kellman, Clerk, and Mr. Thomas G. Carbone, Director of Public Health. Ms. Candace Martin, Chairman, was delayed and joined the meeting at 6:08 p.m.

**I. Approval of Minutes**

- **April 9, 2012**

*Motion by Ms. Martin, seconded by Ms. Kellman to approve the Minutes of the Board of Health Meeting of April 9, 2012. Unanimous approval.*

**II. Appointments & Hearings**

- **6:00 p.m. – Sandy Kiu for Peking Garden – Status Update for Show Cause Hearing** – Mr. Carbone explained that this Hearing was continued for three months with the expectation of having three private inspections with no critical violations. There have been two inspections so far because the Board of Health Meeting was early this month and another inspection report should be received in the next week. Things have been looking really good; temperatures were good, the establishment was clean, and the atmosphere was more positive. Ms. Kiu and her employees showed pride in the good changes that had taken place. Since the conditions have improved consistently, Mr. Carbone recommended that the Board require a private inspection every other month for the next six months. Ms. Kiu will come back after the six months, and if things continue to look good, then the Hearing can be closed.

*Motion by Dr. Miller, seconded by Ms. Kellman to continue the Hearing for six months, requiring three private inspections during that time. Unanimous approval.*

- **6:10 p.m. – Attorney Robert Lavoie and Attorney Mark Tully for 26 Washington Avenue; Appeal of Orders (Continued)** – Mr. Carbone explained to the Board that he performed the re-inspection on Friday and Attorney Tully now meets full compliance with the ORDERS from January concerning Housing Code violations and recommended that the Board close the Hearing with no further action.

*Motion by Dr. Miller, seconded by Ms. Kellman to close the Hearing with no further action to be taken. Unanimous approval.*

- **6:15 p.m. – Susan Big for 49 School Street, Hearing to Consider Condemnation (Continued)** - Mr. Carbone informed the Board that the home at 49 School Street is now

connected to Municipal water service, so he recommended closing the Hearing with no further action.

- **6:15 p.m. – John & Christina Christoforo for 51R School Street, Hearing to consider Condemnation** – Mr. Carbone informed the Board that the home at 51R School Street is now connected to Municipal water service, so he recommended closing the Hearing with no further action.

*Motion by Ms. Kellman, seconded by Dr. Miller, to close the Hearings for Susan Big at 49 School Street and John & Christina Christoforo at 51R School Street with no further action. Unanimous approval.*

### **III. Discussion**

- **Meeting with Economic Development Committee (EDC)** – Mr. Carbone informed the Board that on Thursday, May 3, 2012, he and Ms. Martin met with the Economic Development Committee. Mr. Carbone thought that the meeting went very well. Mr. Carbone was concerned because some of the businesses have been critical of the Health Division in the past. Mr. Carbone gave the Committee copies of a spreadsheet tracking the time it took for some restaurants plans to be approved. Ms. Patricia Crafts, Health Agent, answered those questions in depth with complete details of the procedure and any issues that were discovered that needed correction. Ms. Martin noted that there was a new restaurant trying to open, that was not a change or a renovation, but it has been four months so far and no permits have been issued. Mr. Carbone replied that after meeting with them and telling them what they needed to do, they still have not submitted plans fixing the issues that were addressed. There have been two Plan Reviews with them already. Ms. Martin stated that it seems that food establishments are sometimes told over and over to fix an issue, but then keep coming back without making the corrections. Mr. Carbone stated that some restaurants come to speak with the Health Division in advance for information, but then submit the plans without the needed information. Some of the designers of these establishments do not seem to know what is required by the Board of Health.

Mr. Carbone explained that when there are issues with a Plan Review, Ms. Crafts writes a letter breaking out what was missing from the plans, Mr. Carbone reviews it, and then the letter is sent out. Sometimes we offer to meet with them to go over the issues and sometimes Ms. Crafts will call the food establishment before mailing the letter. The owners have different levels of understanding; some know exactly what is expected, and some need to be helped out a lot more. Established restaurants such as McDonalds, Chili's, or Olive Garden open new restaurants all the time and know what is expected, while smaller establishments don't always know exactly what is required. Ms. Martin stated that it is perceived that there are roadblocks and that a permit should be able to be issued in a couple of days. There is an expectation that this process should go smoother. They do not seem to understand what it takes and do not realize that these things are requirements, not just suggestions. When the Health Division tells an applicant that they must meet with other departments such as the Zoning Board or the Town Clerk to ensure

that the proposal meets the requirements of those groups, they feel that it is the Health Division saying “you have to jump through these hoops for approval” when in reality we are just trying to guide them through the maze. Ms. Martin wondered if there were some process improvements that could be made.

Ms. Martin asked if we are doing an outreach to Sal’s and what could we do to help with this process. Mr. Carbone replied that Sal’s has a conditional approval. Ms. Crafts worked closely with the Planning Director, Paul Materazzo throughout the whole process because of work that Mr. Materazzo had done to bring this restaurant in town. For instance, Sal’s uses time instead of temperature control as a public health control, and in order to do that, they need a Variance from the Board of Health. If the Board did not grant the Variance that would have an impact on how that space is designed; will they need refrigeration, heaters, or something else. They still have not applied for the Variance so the decision was made to give them a conditional approval until they apply for the Variance.

Ms. Martin felt that the EDC asked very good questions, and the suggestion of having information available on the website is a good one. Ms. Martin looked at the flow chart and feels that it implies that before you can fill out an application, you need to meet with a list of eight Divisions/Departments. This gives the impression that the procedure will take a very long time. Ms. Martin questioned how to make things simpler. Mr. Carbone explained that the EDC has talked about doing a permitting guidebook that will help. Also, within the past year, we have begun scheduling Interdepartmental Reviews. Now if someone indicates that they want to open a restaurant, we bring the Divisions/Departments together in the Conference Room so that the applicant has to only meet once with everyone all in one place.

- **Public Health Coalition (Not on Agenda)** – Mr. Carbone informed the Board that the Town of Wilmington will be joining the Public Health Coalition effective July 1, 2012. As a result of that, we are trying to expand our Mutual Aid Agreement within the Coalition partners. We already have a Mutual Aid Agreement with Wilmington that we executed independently. We are now looking to amend the Coalition’s Mutual Aid Agreement, so we needed to have all the original signatories agree that the new agreement will work. Buzz Stapczynski, Town Manager, and the Board all need to sign the document. The change will have no effect on Andover, because we already have a standing Mutual Aid Agreement, but it would just amend the agreement for the Coalition. Mr. Carbone recommended approval.

*Motion by Ms. Martin, seconded by Ms. Kellman to approve the Amendment to the Mutual Aid Agreement. Ms. Martin signed the document. Unanimous approval.*

- **Presentation by Kristin Brosofsky, Intern, on Letter Grading at the Andover Memorial Auditorium on 36 Bartlet Street** – Mr. Carbone informed the Board that Ms. Brosofsky’s presentation would be on Wednesday, May 9, 2012 at 7:00 p.m. at the Veterans Memorial Auditorium. The presentation is open to the general public, and Mr. Carbone also sent invitations via e-mail to Health Directors in the region. Mr. Carbone

did not send the information out to restaurants, since this was only a presentation. If the Board decides to pursue this, then a Public Hearing would be held.

- **Mr. Carbone's Four Day Training on Emergency Response in Environmental Health (as Referred to in his Monthly Report)** – Mr. Carbone explained to the Board that this training was a good primer on what we need to worry about to recover from a disaster as well as setting up a shelter. Mr. Carbone wants to put together a plan for a shelter inspection and address such issues as how the food would be cooked, served and protected; where the food would come from; if there were adequate wash and shower areas; if the shelter is kept clean; and if the shelter was safe for children. Some places could lose their Health headquarters, so as part of our Continuity of Operations, there is actually a plan to migrate a lot of our computer info to cloud based or off-site backup so that we don't lose that information. In theory, if our building were destroyed by fire, we should be able to relocate and set up operations somewhere else.
- **Letter from William Walsh at 217 Highland Road Concerning Animals at 221 Highland Road (in Correspondence)** – Ms. Martin asked about the letter and the concerns that animals are being brought onto the property. Mr. Carbone stated that this is the same person who had the miniature donkeys at a different site a few years ago. She bought this larger property so that she could have the donkeys and other livestock, and she built a barn with the intent to have more animals there. At this time, we would only license the donkeys and the goats since we have not yet updated the Animal Regulations. Mr. Carbone sent an e-mail to Mr. Walsh and said he would be in touch once he had the opportunity to look at things more closely. There is also an issue with Conservation due to the removal of trees near the wetland area.

#### **IV. Old Business**

- **Grease Trap Problems (Not on Agenda)** – Ms. Martin asked who should be responsible for monitoring the grease traps – DPW or the Health Division. Mr. Carbone replied that the Health Division licenses Septage Haulers and they send us their pumping reports. Through those pumping reports, Mr. Carbone recently found that the 99 Restaurant is having issues with their septic system again. We have received pumping records showing that the system is being pumped almost daily, so Mr. Carbone needs to go there and check things out. Mr. Carbone informed the Board that Mr. Chris Cronin, acting Director of Public Works, is co-writing a letter with him to be sent to all restaurants in Town informing them that internal grease traps must be cleaned out monthly and external grease traps must be cleaned out quarterly. Ms. Martin wondered if our permitting system could be utilized to keep track of when cleanouts should be done. Mr. Carbone replied that he wasn't sure if our permitting system would do that, but it is being reviewed. Barnstable County they use software that generates a letter when cleanouts are due, and pumpers do all their reporting on-line. We do not have the staff to enter the required data into the database.

- **Update on 21 Off Webster St. – Appeal of Condemnation ORDER** – Ms. Kellman asked if Mr. Carbone had any update on the septic system and sale of the house. Mr. Carbone stated that he did hear from Ms. Wells that the house has not yet been sold.
- **Update on Use of the Seminary on River Road for Merrimack College Housing** – Dr. Miller asked if Mr. Carbone had an update. Mr. Carbone informed the Board that he had a discussion with a representative from Merrimack College and was told that they were looking to reassess; rather than doing work on the septic system, they did some math on how many students that septic system could handle and thought it could handle 30 to 33 students. Therefore, they were considering the possibility of asking the Board's permission to reallocate the flow of wastewater. Right now that septic system is designed for ten bedrooms, some office space, and the Sanctuary. If they decide to present their case to the Board for approval they would not offer any food, would promise to close the Sanctuary, and not use the office space for the two years needed to house the students.
- **Letter to Susan Odle concerning 38 Michael Way (in Correspondence)** - Ms. Martin asked Mr. Carbone about Ms. Odle's statement concerning the carpeting in the residence of 38 Michael Way. Mr. Carbone explained that Ms. Odle mixed up the two enforcement actions. The rugs needed to be cleaned, but the Condo Association took the rug out and wanted to leave the exposed sub-floor. Mr. Carbone told them that they had to replace the rug or otherwise finish the floor. Ms. Odle stated that she did not like the color or type of the new rug. Mr. Carbone informed her that the replacement complied with the enforcement action.
  - **Susan Odle, 116 Osgood Street** - Mr. Carbone informed the Board that he has a tentative appointment with the Attorney General's office next Wednesday concerning the issues at 116 Osgood St. He sent a copy of the ORDER and a picture of the house with the trash bags on the property. There is a strong possibility that they may take some action against Ms. Odle via the Receiver route.

## **V. Definitive Subdivision Plans**

- N/A

## **VI. Plan Review**

- **DWRP Variance/Local Upgrade Approval**
  - **24 Wethersfield Dr. – LUA to Allow the SAS to be 3' above water table, 4' required** – Mr. Carbone explained that the LUA was requested so that the homeowners would not have to have a pump installed. The system is within the 100' buffer zone, but the only other area they could use is up a hill and would require the pump, which can be costly. The work is outside of the required 50' setback from the wetland next door. Mr. Carbone recommended approval of the LUA.

*Motion by Dr. Miller, seconded by Ms. Kellman to approve the LUA to allow the SAS to be 3' above the water table, where 4' is required. Unanimous Approval.*

*Ms. Martin joined the Meeting at 6:08 p.m.*

- **32 Reservation Road, LUA to Allow SAS to be 17' from Foundation, 20' Required** – Mr. Carbone informed the Board that a line of infiltrators could be moved and then the system would be big enough and would meet full compliance, but Bill Dufresne of Merrimack Engineering was worried about doing that because he felt more comfortable over-designing the capacity in this particular case because of the soil conditions. As far as Mr. Carbone is concerned, he would allow the SAS to be 15' from the foundation before an impervious barrier would be needed between the system and foundation. Ms. Martin asked if this was still declared a three bedroom home and that they are not asking to oversize it so they can add on later. Mr. Carbone replied that he asked Mr. Dufresne that question and he said no because this would be an LUA with the restriction that they cannot add flow to the system. The reason the SAS will not be put into the rear of the house is because it is heavily forested there. This home had a collapsed leach pit and even though the grade is not too steep, there are too many trees. Where they are placing the SAS there are trees, but none would have to be cut down in this area. Mr. Carbone recommended approval of the LUA.

*Motion by Ms. Martin, seconded by Ms. Kellman to approve the LUA to allow the SAS to be 17' from Foundation, where 20' is required. Unanimous approval.*

## **VII. Staff Reports**

### **A. Director's Reports:**

- **Important Dates:**

- April 17, 2012 from 10 a.m. to 12 p.m. – Commissioner of Public Health Regional Dialogue @ Lowell General Hospital.
- April 30, 2012 and May 1, 2012 – Annual Town Meeting.
- May 7, 2012 at 6 p.m. – Board of Health Meeting.
- May 9, 2012 at 7 p.m. – Presentation/Discussion of Graded Food Service Inspections.
- May 24, 2012 at 1 p.m. – EDS Audit with MDPH.
- June 4, 2012 at 6 p.m. – Board of Health Meeting.

**B. Nurses' Reports for March, 2012** – The Nurses' Reports for March, 2012, were for informational purposes only.

**C. Inspectors' Reports for March, 2012** – The Inspectors' Reports for March, 2012 were for informational purposes only.

**VIII. Board Member Reports**

- N/A

**IX. Adjournment**

*Motion by Dr. Miller, seconded by Ms. Martin, to adjourn at 6:58 p.m. Unanimous approval.*